

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

ARCTICDX, INC., ET AL.,

Plaintiffs,

v.

SEQUENOM, INC., ET AL.,

Defendants.

CIVIL CASE NO. 2:12-cv-00081-JRG-RSP

**PROPOSED DOCKET CONTROL ORDER**

In accordance with the status conference held in this case, it is hereby ORDERED that the following schedule of deadlines is in effect until further order of this Court:

October 7, 2013	*Jury Selection — 9:00 a.m. in <b>Marshall, Texas</b>
September 23, 2013	*Pretrial Conference — 9:00 a.m. in <b>Marshall, Texas</b>
September 18, 2013	*Notify Court of Agreements Reached During Meet and Confer The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i> . The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.
September 16, 2013	*File Joint Pretrial Order, Proposed Jury Instructions, Proposed Verdict Form, and Responses to Motions <i>in Limine</i>
September 9, 2013	*File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Susan Simmons, at <a href="mailto:lssimmons@yahoo.com">lssimmons@yahoo.com</a> .
September 2, 2013	File Motions <i>in Limine</i> The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.
September 2, 2013	Serve Objections to Rebuttal Pretrial Disclosures

August 26, 2013	Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
August 12, 2013	Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
July 15, 2013	*File Dispositive Motions or Motions to Strike Expert Testimony (including <i>Daubert</i> Motions) No dispositive motion or motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court.
July 15, 2013	Deadline to Complete Expert Discovery
June 24, 2013	Serve Disclosures for Rebuttal Expert Witnesses
June 3, 2013	Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof
May 27, 2013	Deadline to File Motions to Compel Discovery
May 27, 2013	Deadline to Complete Fact Discovery
May 20, 2013	*Deadline to File Letter Briefs Regarding Dispositive Motions
March 20, 2013	Comply with P.R. 3-7 (Opinion of Counsel Defenses)
February 6, 2013	*Claim Construction Hearing — 9:00 a.m. in Marshall, Texas
January 23, 2013	*Comply with P.R. 4-5(d) (Joint Claim Construction Chart)
January 18, 2013	*Comply with P.R. 4-5(c) (Reply Claim Construction Brief)
January 11, 2013	Comply with P.R. 4-5(b) (Responsive Claim Construction Brief)
December 28, 2012	Comply with P.R. 4-5(a) (Opening Claim Construction Brief) and Submit Technical Tutorials (if any)
December 21, 2012	Deadline to Substantially Complete Document Production and Exchange Privilege Logs. Counsel are expected to make good faith efforts to produce all required documents as soon as they are available and not wait until the substantial completion deadline.
December 12, 2012	Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery)
December 10, 2012	Comply with P.R. 4-3 (Joint Claim Construction Statement)

December 5, 2012	File Response to Amended Pleadings
November 21, 2012	*File Amended Pleadings It is not necessary to seek leave of Court to amend pleadings prior to this deadline unless the amendment seeks to assert additional patents.
November 19, 2012	Comply with P.R. 4-2 (Exchange Preliminary Claim Constructions)
October 31, 2012	Comply with P.R. 4-1 (Exchange Proposed Claim Terms)
October 30, 2012	Deadline to Complete Mediation
Earlier of 10 days after the Court's Ruling on Motion to Dismiss or August 24, 2012	Comply with P.R. 3-3, 3-4, & 3-5 (Invalidity Contentions)
May 21, 2012	Initial Case Management Conference (per April 4, 2012 Order (D.I. 11))
May 18, 2012	Join Additional Parties
May 11, 2012	Comply with P.R. 3-1 & 3-2 (Disclosure of Asserted Claims and Infringement Contentions; per April 4, 2012 Order (D.I. 11))
May 4, 2012	*File Proposed Docket Control Order, Proposed Discovery Order, and Proposed Protective Order
May 4, 2012	*File Notice of Mediator

(\*) indicates a deadline that cannot be changed without showing good cause. Good cause is not shown merely by indicating that the parties agree that the deadline should be changed.

### ADDITIONAL REQUIREMENTS

**Notice of Mediator:** The parties are to jointly file a notice that identifies the agreed upon mediator or indicates that no agreement was reached. If the parties do not reach an agreement, the Court will appoint a mediator. The parties should not file a list of mediators to be considered by the Court.

**Summary Judgment Motions:** Prior to filing any summary judgment motion, the parties must submit letter briefs seeking permission to file the motion. The opening letter brief in each of those matters shall be no longer than five (5) pages and shall be filed with the Court no later than the deadline for filing letter briefs. Answering letter briefs in each of those matters shall be no longer than five (5) pages and filed with the Court no later than fourteen (14) days thereafter. Reply briefs in each of those matters shall be no longer than three (3) pages and filed

with the Court no later than five (5) days thereafter. The Court may decide the question on the submissions or hold a hearing or telephone conference to hear arguments and to determine whether the filing of any motion will be permitted. Letter briefs shall be filed without exhibits. Any requests to submit letter briefs after the deadlines outlined above must show good cause.

**Form of the Pretrial Order and Pretrial Disclosures:** The Court will issue a standing order governing the form of the pretrial order and pretrial disclosures at least four months prior to trial. The parties may obtain a copy of the order from the Court's website at that time.

**Motions for Continuance:** The following excuses will not warrant a continuance nor justify a failure to comply with the discovery deadline:

- (a) The fact that there are motions for summary judgment or motions to dismiss pending;
- (b) The fact that one or more of the attorneys is set for trial in another court on the same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;
- (c) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.

**IT IS SO ORDERED.**

**SIGNED this 13th day of June, 2012.**

  
ROY S. PAYNE  
UNITED STATES MAGISTRATE JUDGE